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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/293,297

04/16/1999

SHAWN P. MCALLISTER

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12/27/2004

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EXAMINER

DUONG, DUC T

ART UNIT

PAPER NUMBER

2663

DATE MAILED: 12/27/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/293,297

Applicant(s)

MCALLISTER ET AL.

Examiner

Duc T. Duong

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 16 August 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-34 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 15-22 and 29-34 is/are allowed.
- 6) ☒ Claim(s) 1,2 and 23 is/are rejected.
- 7) ☒ Claim(s) 3-14 and 24-28 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

2. Claims 1, 2, and 23 are rejected under 35 U.S.C. 102(e) as being anticipated by Miyagi et al (U.S. Patent 5,894,471).

Regarding to claims 1 and 23, Miyagi discloses a link characteristic processor 100 (Fig. 2) comprising a processing module 110 and memory 102 operably coupled to the processing module (col. 5 lines 20-33). The memory includes operating instruction that cause the processing module to determine connection type characteristics (SVC or PVC) for a link (Fig. 3 col. 5 lines 37-42; the resource allocation control part 150 determine whether a connection is a SVC or PVC types before allocating bandwidth to the connection), wherein the connection type characteristics comprise partitioning of

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available bandwidth of the links between switched virtual connections and soft permanent virtual connections (Fig 6A col. 7 lines 18-31; noted PVCs connections read on SPVC connections); advertising the connection type characteristics to at least one node 200 (Fig. 1) in the network (Fig. 9-10 col. 10 lines 7-15 and col. 11 lines 55-67); and utilizing, by the at least one node, the connection type characteristics for selecting a routing path within the network for a connection (Fig. 6B col. 7 lines 33-43).

Regarding to claim 2, Miyagi discloses a routing path (VPC) within the network for a connection based on the connection type characteristics (Fig. 6B col. 7 lines 42-46).

Allowable Subject Matter

3. Claims 3-14 and 24-28 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

4. Claims 15-22 and 29-34 are allowed.

Response to Arguments

5. Applicant's arguments filed August 16, 2004 have been fully considered but they are not persuasive. Regarding to Applicant's argument on page 2, Miyagi fails to teach "determining connection type characteristics for a link". In reply, Fig. 3 col. 5 lines 37-42, Miyagi discloses a resource allocation control 150 for allocating bandwidth between SVCs and PVCs connections. Thus, in deciding the total bandwidth to be allocated the resource allocation control 150 would determine the connections belonging to a SVC or PVC types. Furthermore, in Fig. 6A col. 7 lines 23-27, Miyagi discloses a bandwidth

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allocation of a link 400 to a plurality of SVCs and PVCs connections. So in determining how much bandwidth is to be allocated between SVCs and PVCs connections, the connections must be determine belonging to a SVC or PVC types. Regarding to Applicant's argument on page 2, Miyagi fails to teach advertising the connection type characteristics". In reply, Fig. 9-10 col. 7 lines 7-15 and col. 11 lines 55-67, Miyagi discloses the resource allocation control part 150 sending (advertising) a notification of bandwidth and identifier range for SVCs and PVCs connection. Regarding to Applicant's argument on page 3, Miyagi fails to teach "selecting, by the at least one node, a routing path within the network for a connection based on the connection type characteristics". In reply, Fig. 6B col. 7 lines 33-43, Miyagi discloses a table showing the network equipments 501 (nodes) selecting line interface identifying number 502 and VPC identifying number 503 for connecting to the network. Based on the reasons set forth the rejections are maintained.

Conclusion

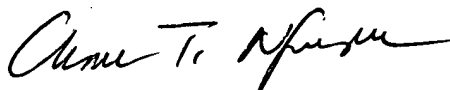
6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Duc T. Duong whose telephone number is 571-272-3122. The examiner can normally be reached on M-Th (9:00 AM-6:00 PM).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chau T. Nguyen can be reached on 571-272-3126. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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